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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN GIMBEL,

Defendant.

CR No. 09-0989 MHP

**STIPULATION AND [PROPOSED]
ORDER CHANGING HEARING DATE**

On July 15, 2010, pursuant to the parties' stipulation, the Court ordered the hearing on the defendant's motion to dismiss be changed to July 29, 2010. Since that time, counsel for the government has become unavailable on July 29 due to a family emergency. For this reason, the parties respectfully request that the date for the hearing be moved to August 6, 2010, at 10:00 a.m.

The Court has previously ordered that time be excluded from any calculation under the Speedy Trial Act based on effective preparation of counsel. *See* 18 U.S.C. § 3161(h)(7)(B)(iv). The parties request that this additional period of time be excluded for the same basis, in addition to its exclusion through the filing of the defendant's motion to dismiss. *See* 18 U.S.C. §

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3161(h)(1)(D).

SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: July 22, 2010

/s/
KEVIN J. BARRY
Assistant United States Attorney

DATED: July 22, 2010

/s/
MICHAEL STEPANIAN
Attorney for Defendant John Gimbel

~~PROPOSED~~ ORDER

For good cause shown, the Court hereby moves the hearing date for the defendant's motion to dismiss from July 29, 2010 to August 6, 2010, at 10:00 a.m. The Court finds that an exclusion of the time between July 29, 2010 and August 6, 2010 from any limits applicable under 18 U.S.C. § 3161 is warranted, both through the filing of the defendant's motion and for effective preparation of counsel. The Court finds that the ends of justice served by granting such an exclusion of time outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). A failure to grant the requested exclusion of time would deny counsel for the defendant and for the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(iv).

IT IS SO ORDERED.

Dated: 7/23/2010

